

CITY COUNCIL AGENDA

NOVEMBER 8, 2005

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:03 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent Council Members: None.

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 10)**
Divya Musinipally, Speech and Debate Team, Leland High School, read a excerpt from her award-winning inspirational speech.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Westfield Shoppingtown on the occasion of their 7th Annual “Westfield Works Wonders” events at Westfield Shoppingtown Valley Fair and Oakridge. (Yeager/Pyle)
Mayor Gonzales and Council Members Yeager and Pyle recognized the efforts of Westfield Shoppingtown in their continued support to the community of San José.
- 1.2** Presentation of a commendation to Pivot Interiors for its important contributions to the San José economy. (Mayor/Reed)
(Rules Committee referral 11/2/05)
Mayor Gonzales and Council Member Reed recognized and commended Pivot Interiors for 30 years of success and contributions to the City of San José.

1. CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to the Digital Clubhouse for service to the community and participation in the National Parade Weekend in New York City, a celebration commemorating the 60th anniversary of the end of WWII. (Reed)
(Rules Committee referral 11/2/05)
Mayor Gonzales and Council Member Reed recognized and commended the Digital Clubhouse for its leadership to preserve the stories of unsung heroes.
- 1.4 Presentation of a commendation to Reed Hastings in recognition of his personal contribution towards public education in San José. (Campos)
Mayor Gonzales and Council Member Campos recognized and commended Mr. Reed Hastings, President and CEO of Netflix, for his personal contributions and commitment towards public education in the community of San José.
- 1.5 Presentation of a commendation to Kipp Heartwood Academy for providing a strong education environment that encourages results and provides an exemplary school model for San José. (Campos)
Mayor Gonzales and Council Member Campos recognized and commended the Kipp Heartwood Academy for its strong educational environment that encourages dramatic results and provides an exemplary school model for the community of San José.

2. CONSENT CALENDAR

- 2.1 Approval of Minutes.
There were none.
- 2.2 Final adoption of ordinances.
There were none.
- 2.3 Adoption of a resolution supporting a Federal Department of Peace and Non-Violence.

Recommendation: Adoption of a resolution supporting a Federal Department of Peace and Non-Violence. (Cortese)

Renumbered to 3.4.

2. CONSENT CALENDAR

2.4 Approval of a lower rate fee structure for use of the Fitness Center at Camden Community Center.

Recommendation: Adoption of a resolution superseding Resolution No. 72738 to amend the adopted 2005-2006 Parks and Recreational Facilities Fee Resolution to provide for a lower resident rate fee structure for senior, youth, and disabled populations using the Fitness Center at Camden Community Center, retroactive to July 1, 2005. CEQA: Not a Project. Council District 9. (Parks, Recreation and Neighborhood Services)

Resolution No. 72957 adopted.

2.5 Approval to amend an agreement related to Fire Stations Nos. 34 and 35.

Recommendation: Approval of the first amendment to the agreement with RRM Design Group, Inc. to expand the planning, design and construction administration scope of services for Fire Stations Nos. 34 and 35, increasing compensation by \$366,366 for a total agreement amount of \$1,032,015 and extending the term from May 31, 2007 to May 31, 2008. CEQA: FS No. 34: Mitigated Negative Declaration, PP05-104; FS No. 35: Exempt, PP02-02-028. Council District: FS No. 34: 3 and 4; FS No. 35: 2. (Public Works/Fire)

Approved.

2.6 Approval of structural engineering master agreements for various City Projects.

Recommendation: Approval of two structural engineering master agreements with:

- (a) Crosby Group for a variety of structural engineering consulting services for various City Projects from the date of execution to October 31, 2007, for a total agreement amount not to exceed \$250,000.
- (b) Biggs Cardosa Associates, Inc. for a variety of structural engineering consulting services for various City Projects from the date of execution to October 31, 2007, for a total agreement amount not to exceed \$250,000.

CEQA: Not a Project. (Public Works)

Approved.

2.7 Approval of the appointment to the Valley Transportation Authority's South County Highway Policy Advisory Board.

Recommendation: Approval of the appointment of Council Member Nancy Pyle to the Valley Transportation Authority's South County Highway Policy Advisory Board. (Mayor)

(Rules Committee referral 11/2/05)

Approved.

2. CONSENT CALENDAR

2.8 Approval of proposal to restore Police Activities League (PAL) funding.

Recommendation: Approval of the following fund transfers and direction to staff to return on November 15, 2005 with the budget actions to implement the following:

- (a) Funds transfer of \$100,000 from Appropriation #706 – Reserve: PAL Stadium Synthetic Playing Field (City of San José Adopted Capital Budget and Adopted Capital Improvement Program 2005-2006: page V-665) and \$28,000 from District 8 Parks Construction & Conveyance Fund Ending Fund Balance (City of San José's Adopted Capital Budget and Adopted Capital Improvement Program 2005-2006: page V-656), to Appropriation #5944 – Trail: Silver Creek/Dobern Bridge (City of San José's Adopted Capital Budget and Adopted Capital Improvement Program 2005-2006: page V-609).
- (b) Funds transfer of \$128,000 from Appropriation #4013 – Trail: Silver Creek/Dobern Bridge in the General Fund (City of San José's Adopted Capital Budget and Adopted Capital Improvement Program 2005-2006: Page V-609) to a General Fund appropriation to the Parks, Recreation & Neighborhoods Services Department to be used solely towards maintenance at Police Activities League Stadium in FY05-06.

(Cortese/Campos)

(Rules Committee referral 11/2/05)

Approved.

2.9 Approval of an ordinance to authorize certain real estate investments by the Police and Fire Retirement Plan.

Recommendation: Approval of an ordinance amending Section 3.36.550 of Chapter 3.36 of Title 3 of the San José Municipal Code to authorize the Board of Administration for the Police and Fire Department Retirement Plan to make real estate investments through a title holding corporation described in Internal Revenue Code Section 501(c)(2). CEQA: Not a Project. (Board of Administration for the Police & Fire Dept. Retirement Plan)

(Rules Committee referral 11/2/05)

Ordinance No. 27595 passed for publication.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair No Report.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – October 26, 2005

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
 - (b) City Council
 - (1) Review November 8, 2005 Draft City Council Agenda
 - (2) Add New Items to November 1, 2005 City Council Agenda
 - (3) List of Reports Outstanding
 - (c) Legislative Update
 - (1) State
 - (2) Federal
 - (d) Meeting Schedules
 - (e) The Public Record
 - (f) Appointments to Boards, Commissions and Committees
 - (1) Youth Commission
 - (a) Reappoint 3 Commissioners
 - (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Workload Assessment for Referral from the Small Business Development Commission Regarding Payment and Performance Bond Program for Small Business Contractors Workload Assessment
 - (h) Oral Communications
 - (i) Adjournment
- Deferred to 11/15/05.**

3.3 Report of the Making Government Work Better Committee

Council Member Reed, Chair

No Report.

3.4 Adoption of a resolution supporting a Federal Department of Peace and Non-Violence.

Recommendation: Adoption of a resolution supporting a Federal Department of Peace and Non-Violence. (Cortese)

Renumbered from 2.3.

Resolution No. 72958 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee

Council Member Chirco, Chair

No Report.

4.2 Report of the Driving a Strong Economy Committee – October 24, 2005

Council Member Williams, Chair

- (a) Secondary Units Pilot Program Implementation Steps and Community Outreach
The Committee accepted the Staff report.
See Item 4.3 for Council Action taken.
- (b) Grand Prix Report
The Committee accepted the Staff report, with Staff directed to build in a strong marketing effort for next year to publicize the availability of ample parking and the ease to access downtown for non Grand Prix attendees.
- (c) Disadvantaged Business Enterprise Participation Goals
The Committee accepted the Staff report, with the Small Business Commission recommendations referred to the Rules Committee to determine if Staff work load assessment for implementation of recommendations is appropriate.
- (d) Discuss Homeless Plan Implementation and Possible Partnerships
The Committee accepted the Staff report with Staff directed to perform outreach to regional organizations for additional support.
- (e) Economic Development Strategy
The Committee accepted the Staff report.
- (f) Status of Industrial Lands
The Committee accepted the Staff report with recommendations of the report to be agendized for the 11/8/05 City Council Meeting for approval.
See Item 4.4 for Council Action taken.
- (g) Oral Petitions
None were presented.
- (h) Adjournment
The meeting was adjourned at 4:10 p.m.

The Driving a Strong Economy Committee Report and the Actions of October 24, 2005 was accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval of an ordinance for a one-year pilot program for secondary units.

Recommendation: Approval of an ordinance providing a limited exception to Ordinance No. 21663 that precludes second units, and adopting a temporary second unit pilot program which authorizes the issuance of a maximum of 100 permits during a one-year evaluation period from January 1, 2006 through December 31, 2006, and which establishes specified requirements pertaining to minimum lot size, maximum unit size and number of bedrooms, parking, development standards, design standards, and applicable fees. CEQA: Exempt, File No. PP05-196. (Housing/Planning, Building and Code Enforcement)

[Driving a Strong Economy Committee referral 10/24/05 – Item 4.2(a)]

Deferred to 11/15/05, to be heard in the evening.

4.4 Approval of actions related to the City's industrial lands.

Recommendation:

- (a) Acceptance of the status report on the City's industrial lands.
- (b) Adoption of the proposed modifications to the Framework, as a guideline, to evaluate proposed conversions of employment lands to other uses.
- (c) Approval of an ordinance of the City of San José amending provisions of Chapter 20.50 and Chapter 20.90 of Title 20 of the San José Municipal Code, the zoning ordinance, to streamline the required permit process for certain uses in industrial districts, to allow for increased amounts of commercial support uses in industrial districts, and to modify provisions of the parking chapter of the zoning ordinance relating to uses in industrial districts. CEQA: Exempt, PP05-191.

CEQA: Not a Project. (Planning Building and Code Enforcement)

[Driving a Strong Economy Committee referral 10/24/05 – Item 4.2(f)]

Deferred to 11/15/05, to be heard in the evening.

4.5 Approval of actions for a special election for Community Facilities District No. 12.

Recommendation:

- (a) Conduct a special election regarding Community Facilities District No. 12 (Basking Ridge) special tax.
- (b) Adoption of a resolution declaring the results of the special election; and if approved, direct the recording of the notice of the special tax lien for Community Facilities District No. 12.

Resolution No. 72959 adopted.

- (c) Adoption of an ordinance imposing the levy of special taxes for Community Facilities District No. 12.

CEQA: Resolution No. 71360, PP05-36. Council District 2. (Public Works)

Ordinance No. 27596 adopted.

5. NEIGHBORHOOD SERVICES

- 5.1 Report of the All Children Achieve Committee**
Council Member Yeager, Chair
No Report.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Building Better Transportation Committee**
Council Member Campos, Chair
No Report.
- 6.2 Approval to amend an agreement for Airport financial feasibility consultant services.**

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the first amendment to the agreement with Ricondo & Associates, Inc., for airport financial feasibility consultant services to implement Phase II of consultant services as part of the multi-phase project, increasing the maximum compensation by \$600,000 from \$300,000 to a not to exceed amount of \$900,000, with no change to the term. CEQA: Resolutions No. 67380 and 71451, PP 05-186. (Airport)

Resolution No. 72960 adopted, with Staff directed to circulate an information memorandum to Council outlining the list of activities and a product timeline, as well as a matrix comparing the Airport to other like airports.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

- 8.1 Approval of the City of San José's Updated Flood Plan.**

Recommendation: Evaluation and approval of the updated flood plan in light of lessons learned from the disasters caused by hurricanes Katrina and Rita. (Emergency Services)
[Reed and Rules Committee referral 10/12/05]

Deferred to 12/6/05.

8. PUBLIC SAFETY SERVICES

8.2 Approval of actions related to San José's emergency response and preparedness strategy.

Recommendation: Approval of actions related to San José's emergency response and preparedness strategy including direction the City Manager to return to Council with appropriation actions to allocate \$500,000 for the Risk/Threat Assessment. (Mayor/Vice Mayor/City Manager)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:49 p.m. to consider Items 9.1 and 9.2 in a Joint Session.

9.1 Approval to award a contract for the Capitol Park Neighborhood Center Re-Bid Project.

Recommendation:

- (a) Report on bids and award of contract for the Capitol Park Neighborhood Center Re-Bid Project to the low bidder, Ram Building Company, in the amount of \$572,680 and approval of a contingency in the amount of \$57,268.

Approved.

- (b) Adoption of a resolution by the Agency Board approving the following adjustments to the 2005-2006 Adopted Capital Budget and the 2005-2006 Appropriation Resolution
 - (1) Adding \$150,000 from the SNI Reserve to the Capitol Park Neighborhood Center Re-Bid Project in the Capitol Park Neighborhood Center Project line appropriation.
 - (2) Adding \$210,000 from the East Valley/680 Strong Neighborhood to the Capitol Park Neighborhood Center Re-Bid Project in the Capitol Park Neighborhood Center line appropriation.

Redevelopment Agency Resolution No. 5650 adopted.

- (c) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capitol Projects Fund (City-Side Redevelopment Fund):
 - (1) Establish an appropriation to the Department of Public Works for the Capitol Park Neighborhood Center Re-Bid Project in the amount of \$360,000.
 - (2) Increase the estimate for Earned Revenue by \$360,000

Ordinance No. 27597 adopted.

Resolution No. 72961 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Approval to award a contract for the Capitol Park Neighborhood Center Re-Bid Project (Cont'd.)

- (d) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency Funds on certain public improvements, as more specifically described in the memorandum from the Redevelopment Agency, dated October 21, 2005.

Resolution No. 72962 adopted.

- (e) Adoption of the following appropriation ordinance amendments in the District 5 Construction and Conveyance Tax Fund:

- (1) Increase the appropriation to the Department of Public Works for the Capitol Park Neighborhood Center Re-Bid Project in the amount of \$46,000.

- (2) Decrease the School Improvement Grant project by \$46,000.

CEQA: Exempt, PP03-08-267. Council District 5. SNI: East Valley/680 Communities.
(City Manager's Office/Redevelopment Agency)

Ordinance No. 27598 adopted.

9.2 Approval of actions related to Getting Families Back to Work III.

Recommendation: Approval of actions related to Getting Families Back to Work III.
(Mayor/Vice Mayor)

(Rules Committee referral 11/2/05)

Deferred to 11/15/05.

The Redevelopment Agency Board portion of the meeting was adjourned at 2:50 p.m.

- **Closed Session Report**
No Report.

- **Notice of City Engineer's Pending Decision on Final Maps**

- **Open Forum**

- (1) **David Wall congratulated Mayor Gonzales on Treatment Plant Advisory Committee (TPAC) negotiations.**
- (2) **Mark Trout voiced his own personal religious views.**
- (3) **Robert Apgar, Jr. voiced personal observations.**
- (4) **Ross Signorino commented on youth violence and urged the City to stay alert.**

- **Adjournment**

The Council of the City of San José adjourned at 2:57 p.m.